



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/507,228	03/07/2005	Ralf Widera	520.1046	1768
7278	7590	08/29/2007		
DARBY & DARBY P.C. P.O. BOX 770 Church Street Station New York, NY 10008-0770			EXAMINER LIN, WEN TAI	
			ART UNIT 2154	PAPER NUMBER
			MAIL DATE 08/29/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/507,228

Applicant(s)

WIDERA ET AL.

Examiner

Wen-Tai Lin

Art Unit

2154

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 July 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 25-55 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 25-55 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>9/04</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 25 – 55 are presented for examination.
2. The text of those sections of Title 35, USC code not included in this action can be found in the prior Office Action.

Claim Rejections - 35 USC § 102

3. Claims 25-41 and 44-55 are rejected under 35 U.S.C. 102(e) as being anticipated by Toyoshima et al.[U.S. PGPub 20040044753].
4. Toyoshima was cited in the previous office action.
5. As to claims 25 and 29, Toyoshima teaches the invention as claimed including: a method for automatically indicating status information via an output device, the status information including at least one of a status of a component of a measuring system, a status of a connection of the measuring system, and a measurement result of the measuring system [e.g., Abstract; paragraphs 43-50], the method comprising:
 sending measurement packets with an adjustable distribution in time so as to determine first status information [e.g., paragraph 53, wherein measured data are

averaged, prior to sending, over adjustable intervals (i.e., may change from one fixed time interval to another fixed time interval));

assigning first status information to a first status range of a plurality of fixed status ranges according to at least one first predetermined condition, the first status range being limited by at least one first threshold value [e.g., paragraph 36];

outputting the assigned first status range [e.g., 514, Fig.5]; and

automatically updating the first status information at a predetermined time interval [paragraphs 14-15 and 40].

6. As to claim 26, Toyoshima teaches that the method further comprises:

assigning second status information to a second status range of the plurality of fixed status ranges according to at least one second predetermined condition, the second status range being limited by at least one second threshold value ;

outputting the assigned second status range; and

automatically updating the second status information at the predetermined time interval [paragraph 40; note that there are a plurality of columns in the spreadsheets shown in Fig. 4, each representing a displayed variable having an inherent status range because each belongs to different data type].

7. As to claim 27, Toyoshima further teaches that the measuring system includes at least a portion of a telecommunications network [Abstract].

8. As to claim 28, Toyoshima further teaches that the telecommunications network includes at least one of an internet and an intranet [e.g., 1030 Fig.10].

9. As to claims 30-31, Toyoshima further teaches that the outputting includes displaying the assigned first status range in a graphic using an output device and further comprising displaying the first status information in the graphic using the output device, wherein the graphic includes a matrix [e.g., Figs. 4-5; note that a spreadsheet has its elements/cells arranged as a matrix]

10. As to claims 32-34, Toyoshima further teaches that the graphic includes a graphical user interface, a first level of the first status range on the graphical user interface having at least one underlying representation level capable of being made visible by activation in the first level, wherein the graphical user interface includes a window [paragraph 36-37], wherein at least one of the first status information and the first status range is displayed, relative to the first level, in increased detail in the at least one underlying representation level [note that Fig.5 shows increased details of an element in Fig.4].

11. As to claim 35, Toyoshima further teaches that each of the status ranges has a respective different color so as to individualize each respective status range [e.g., 514 Fig.5; paragraph 36].

12. As to claim 36, Toyoshima further teaches that:

the plurality of status ranges includes a second status range;

the first and second status ranges reflect at least one of a magnitude of a first measurement result, a plurality of second measurement results, and a value describing a status of a first component of the measuring system [Figs. 4-5; paragraphs 34-46];

and the first and second status ranges together form a hierarchy [e.g., paragraph 36, wherein the first status range (e.g., being designated as values below a threshold) and the second status range (e.g., being designated as values above the threshold) form a hierarchy].

13. As to claim 37, Toyoshima further teaches that the measuring system includes a first and a second measuring computer [e.g., 718-722 Fig. 7; 1020, 1040, Fig.10] and a control computer [e.g., 712 Fig.7; 1012-1016, Fig.10] configured to control the first and second measuring computer; and

the first status information is based on at least one of a status of the first measuring computer, a quality of a measurement connection between the first and second measuring computers, a reachability of at least one of the first and second measuring computers by the control computer, a time synchronization of the first and second measuring computers, and a currentness of the status information [e.g., paragraphs 43-50].

14. As to claim 38, Toyoshima further teaches that:

a first component of the measuring system includes a measuring computer [e.g., a VPN server];

the first status information relates to a status of the measuring computer; and the displaying the first status information includes displaying the first status information in an assigned first field in a first column of the matrix [e.g., G column of Fig. 4 shows the utilization rate measured from the VPN servers and column I shows the action status].

15. As to claim 39, Toyoshima further teaches that the outputting includes displaying the assigned first status range in a matrix of a graphic using the output device, and further comprising:

displaying the first status information in an assigned first field in a first column of the matrix, the first status information being based on a status of the first measuring computer [e.g., the bit rate associated with VPN1 in Fig.4];

displaying an assigned second status range in the matrix using the output device; and displaying second status information in an assigned second field in the first column of the matrix using the output device, the second status information being based on a status of the second measuring computer [e.g., the current bit rate associated with VPN2 in Fig.4].

16. As to claim 40, Toyoshima further teaches that the first and second measuring computers are represented in the assigned respective field in the first column of the

matrix by a respective identifier including at least one of a name and an IP address [e.g., 512, 516, Fig.5; C-D columns of Fig.4].

17. As to claim 47, Toyoshima further teaches that the outputting includes displaying the assigned first status range in a matrix of a graphic using the output device and further comprising displaying the first status information in the graphic using the output device, the graphic including a graphical user interface [e.g., a browser], a first level of the first status range on the graphical user interface having a second representation level capable of being made visible by activation in the first level, a second field of the matrix being disposed in a second row or column and including the second representation level showing a status of a first measurement connection in more detail than the first level [Figs. 4-5; paragraph 36].

18. As to claim 48, Toyoshima further teaches that the second representation level indicates a type of the first measurement connection between first and second measuring computers of the measuring system and a status of at least one measurement parameter determining a quality of the first measurement connection [e.g., 520-534 Fig.5].

19. As to claim 49, Toyoshima further teaches that the status of the at least one measurement parameter is based on at least one transmission characteristic in the first measurement connection [e.g., columns E-H].

20. As to claim 50, Toyoshima further teaches that the at least one transmission characteristic includes at least one of a packet delay, an IP delay variation, and a packet loss [e.g., paragraph 47].

21. As to claim 51, Toyoshima further teaches that the second representation level has a subordinate third representation level showing measurement results in detail over a predetermined period of time [e.g., 540, 550, Fig.5].

22. As to claim 52, Toyoshima further teaches that the outputting includes displaying, using an output device, the assigned first status range in a matrix of a graphic including a graphical user interface, and further comprising displaying the first status information in the matrix using the output device, a first level of the first status range on the graphical user interface having a subordinate second representation level capable of being made visible by activation in the first level, the second representation level displaying system messages [Figs. 4-5; paragraph 36: "The window of FIG. 5 is displayed when, for example, the current bit rate cell 420 is selected in FIG. 4. A graph showing the VPN link 514 between Osaka 512 and Tokyo 516 is shown at the top of the window"].

23. As to claim 53, Toyoshima further teaches that the outputting is performed using an output device configured to display and update the status information via a browser [paragraphs 39 and 41].

24. As to claim 54, Toyoshima further teaches that the sending the measurement packets includes sending a first measurement packet from a first measuring computer to a second measuring computer along a measurement path, and further comprising the steps of: generating a first time stamp [e.g., T1] for the first measuring computer; and generating a second time stamp [e.g., T2] when the first measurement packet is received at the second measuring computer [Table 4 in paragraph 53].

25. As to claim 55, Toyoshima further teaches that the adjustable distribution in time comprises at least one of a constant or exponential distribution [paragraph 53: "... accumulated to form averages which can be either an average over a fixed time interval, e.g., hourly, daily, weekly, or/and monthly or an average using a moving window ..."].

26. As to claims 41 and 44-46, since the features of these claims can also be found in claims 25, 30-31 and 36-40, they are rejected for the same reasons set forth in the rejection of claims 25, 30-31 and 36-40 above.

27. Claims 25, 36-37 and 39-44 are rejected under 35 U.S.C. 102(e) as being anticipated by Cruickshank et al.[U.S. PGPub 20030126256].

28. As to claim 25, Cruickshank teaches the invention as claimed including: a method for automatically indicating status information via an output device, the status information including at least one of a status of a component of a measuring system, a status of a connection of the measuring system, and a measurement result of the measuring system [e.g., Abstract], the method comprising:

 sending measurement packets with an adjustable distribution in time so as to determine first status information [e.g., paragraph 47: "The sample intervals apply to the intervals for which the data are collected. Some of the data for the calculation may be collected at slower rates than other data."].

 assigning first status information to a first status range of a plurality of fixed status ranges according to at least one first predetermined condition, the first status range being limited by at least one first threshold value [e.g., paragraphs 7-8];

 outputting the assigned first status range [e.g., paragraph 139; Fig.3; Table 5];
and

 automatically updating the first status information at a predetermined time interval [paragraphs 132-139; 142-146].

29. As to claim 36, Cruickshank further teaches that:
 the plurality of status ranges includes a second status range;

the first and second status ranges reflect at least one of a magnitude of a first measurement result, a plurality of second measurement results, and a value describing a status of a first component of the measuring system [Fig.3; Table 5]; and

the first and second status ranges together form a hierarchy [e.g., paragraph 144].

30. As to claim 37, Cruickshank further teaches that the measuring system includes a first and a second measuring computer [e.g., 12-14, Fig.1] and a control computer [e.g., 20, Fig.1] configured to control the first and second measuring computer; and

the first status information is based on at least one of a status of the first measuring computer, a quality of a measurement connection between the first and second measuring computers, a reachability of at least one of the first and second measuring computers by the control computer, a time synchronization of the first and second measuring computers, and a currentness of the status information [e.g., paragraphs 30-31].

31. As to claim 39, Cruickshank further teaches that the outputting includes displaying the assigned first status range in a matrix of a graphic using the output device, and further comprising:

displaying the first status information in an assigned first field in a first column of the matrix, the first status information being based on a status of the first measuring

computer [e.g., first row of Table 5 represents a first modem performance metric associated with the first measuring computer];

displaying an assigned second status range in the matrix using the output device; and displaying second status information in an assigned second field in the first column of the matrix using the output device, the second status information being based on a status of the second measuring computer[e.g., second row of Table 5 represents a second modem performance metric associated with the second measuring computer].

32. As to claim 40, Cruickshank further teaches that the first and second measuring computers are represented in the assigned respective field in the first column of the matrix by a respective identifier including at least one of a name and an IP address [See the left column of Table 5, which are modem identifiers associated with their measuring computers.

33. As to claim 42, Cruickshank further teaches that a first component of the measuring system includes a measuring computer, and further comprising displaying the first status information in an assigned first field in a first column of a matrix of a graphic, the first status information being based on a status of the measuring computer, the first status information including at least one of a status of a time synchronization of the measuring computer, the reachability of the measuring computer by a control computer, and at least one error message of the measuring system regarding the

measuring computer [e.g., Table 1, wherein error rates are incorporated into the calculation of the performance metrics].

34. As to claim 43, Cruickshank further teaches that a first component of the measuring system includes a measuring computer, and further comprising displaying the first status information in an assigned first field in a first column of a matrix of a graphic, the first status information being based on a status of the measuring computer, an assignment of the measuring computer to a control computer being indicated in a respective field in a first row of the matrix [e.g., Table 5, wherein the modem a identifier is displayed in a first row of the matrix].

35. As to claims 41 and 44, since the features of these claims can also be found in claims 25, 30-31 and 37-40, they are rejected for the same reasons set forth in the rejection of claims 25, 30-31 and 37-40 above.

36. Applicant's arguments filed on 7/11/2007 for claims 25-53 have been fully considered but they are not deemed to be persuasive.

37. Applicant argues that the amended claim 25 now includes a feature that the measured data packets are sent with an adjustable distribution in time, which is not taught by either Toyoshima or Cruickshank.

38. Examiner respectfully disagrees with applicant's remarks: As shown in paragraphs 5 and 28 of this instant office action, both Toyoshima and Cruickshank clearly teach that the data sending period, even though it is fixed for certain duration, can be adjusted from time to time.

For this reason, it is submitted that the prior art of record reads on the amended claims.

39. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

40. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Wen-Tai Lin whose telephone number is (571)272-3969. The examiner can normally be reached on Monday-Friday(8:00-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Flynn can be reached on (571) 272-1915. The fax phone numbers for the organization where this application or proceeding is assigned are as follows:

(571) 273-8300 for official communications; and

(571) 273-3969 for status inquires draft communication.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Wen-Tai Lin

August 23, 2007

Wen-Tai Lin
8/23/07